G. R. S. IX-5]

*Previous references.*
LR 11-6

192 .

File No 190694

Serial Nos 1–9

*Later references.*
190696

# GENERAL AND REVENUE SECRETARIAT

*Serial Nos.* 1–9

Part B for June 1896

SUBJECT.

Statement Showing the Monthly Flock

WD 2253 —(Pb)—20,000—14-6-20

Memo

In 1868 the land in dispute viz Survey No. 170 ¾ were sold by public auction then under the rules Anthony Britto became then purchaser & accordingly Patta bearing No 5382 was granted in his name He continued in the enjoyment till 1876 In the month of June 1876 partition having taken place between the brothers of the ex Britto the disputed property along with others were awarded to the three of the brothers

In

Ex Patta No 5382

4 The instructions [illegible]
The boundaries given
therein exactly coincides
with the boundary
given in the Patta
bearing No 5382 granted
to Anthony Britto in
the year 1868

The property in
dispute along into
others properties have
passed several hands
in the way of enjoyment
& possession for more
30 years

Thus all the parties
had their respective
acts of ownership at
their duration & the
land was never inter
fered by anybody.

There is evidence
both document & oral
to prove that the land
now

3 & possession of the properties he sold to J. M. Britto who sold away the same properties to his wife on the 20th March 90

Vide Sale deed of 19th June 1890

Thus the properties along with the one in dispute had been in uninterrupted possession enjoyment from 1868 upto 1895 thus for a period of 27 years Then only for the first time the Deputy Commissioner interfered & passed a hasty order.

The grounds are:—

(1) Patta No 3382 tallies exactly not only with the entry in the power of attorney of 1876 but more clearly with the surveyors Sketch (prepared at the

Vide Sketch prepared by the Surveyor

2

Vide para 19 Claims
&c. &c. &c. ~~of the plaint~~
~~of~~ attorney. Exhibited
also
para 14 of the Schedule
attached to the plaint.

Vide Sale deed
dt 2d November 1885

Vide deed of Sale
dt 19th March 1890

On 23rd November 1876
all the three brothers
gave a General power
of attorney in the name
of one G.M. Coutho
to exercise all acts
of ownership on their
behalf in the properties
situated in the provinc
of Mysore among
which is also enlisted
survey No. 4 in dispute

Anthony along with
having been
2 others in the enjoy-
ment & possession
of the property in
dispute till 1886 he
sold all the right
title & interest he had
in all the ~~properties~~
properties in Mysore
to B. A Britto

From 1885 B. A
Britto having been
in the enjoyment

Vide the depositions of
Magan Shantrgue
do Potle
&
Villagers.

had also been in the
petitioners & her predecessors
enjoyment since 1868
upto the order of the
Deputy Commissioner
against which the present
appeal has been filed

There is nothing on
the record to show that
the land in dispute
was Govt. land & had
it been so it would
have been applied long
ago by others & it would
have been otherwise
disposed of

The petitioner when
Carrying on extensively
the cultivation in the
said land viz digging
pits &c thro: her
agency the Dy. Comm
unnecessarily interfered &
inflicted a heavy fine
for the innocence, for her
Vide Norman's Estate
of the Estates.

(5)

Before the Government of *His Highness* the Maharaja of Mysore.

---

Appeal No. 27/97 of 1894-95.

---

Appellant. Vs. ~~Respondent.~~

1. Sabina Coelho
Mr. C. Sabapataiya

Notice served.

---

*Decision.*

The Deputy Commissioner will be requested to send a sketch of Nos. 4. 46. & 9 & the other contiguous survey numbers. The boundaries mentioned in the pattas produced by the appellant should be distinctly marked in the sketch. The question which has to be determined in this case is whether No 4 is included within the boundaries mentioned in those pattas. The question as to the effect of the appellants' conduct in not having the ~~Survey~~ Survey boundaries verified ~~when~~ is one of secondary importance, as if 4 formed a part of the appellants holding

the separation of it from survey No. 46 will not altogether deprive the appellant of it. without however making any remarks about the merits of the question, it seems proper that it should be ascertained whether S. No. 4 ever formed part of the appellants' holding under the Patta. The Dy Coll will give his opinion of this question with reasons, and submit a sketch of the lands alone mentioned

Illegible

To Abdul Rahiman Sahib
RB
16.6.95

Laid before the 3rd Councillor

I agree to the above order 17-6-95

16.6.95 Abdul Rahiman

Approved
21-6-95
Bro: the order BR 21/6

Drafted

7

The petitioners since
the came by the possession
of the land have all
along been paying
the heavy Cesses
without any advant=
ages yield & besides
the labor she had collected
at a very heavy cost
has also been scattered
away owing to the
Deputy Commissioners
threat & interference &
she is at a loss to
know from whom &
against whom she has the
recourse to recover
the loss sustained in the
manner stated above

Act of ownership &
enjoyment

6

The legal maxim
is when property once possessed
is found to be always
possessed & cannot
be dispossessed &
the Dy. Commissioner
Could neither fine me
nor eject the petitioner without
due enquiry of the
right & possession

The boundaries
given in the Sketch
when Compared with
Patta & so long a
date of 1868 in all
points corresponds exactly.
& it is inconsistent
& improbable to assume
that it was Govern-
-ment land & the petitioner
had the encroachment
upon it.

See Sketch of the Survey
&
Patta No 5382.

The

12

in S. No: 9 only 50 acres are assessed and the rest belonging to Govt. Mr. Brito also says that a portion of this, known in the Maji patta as Jyotipadu is not included in the measurement and that this No: 9 has not yet been surveyed. He promises to point out the boundaries at the time of Survey. Mr. Brito also represents that, as the Maji Pattas included lands not fit for cultivation, the lands should be resurveyed.

A.S.
28/4/96

CO

Translation

Surveyor's Report - 5 J 24/1/1/195

Mr. Brito, agent of the Appellant, was present when I went to inspect the land in dispute and pointed out the boundaries mentioned in the old patta. I have marked these boundaries and also prepared a coloured sketch showing them. In the sketch are also shown Mr. Brito's land adjoining the Petitioner's land. An explanatory memo and the statement of the patel and Shanbogue and a petition which Mr. Brito wants to be submitted are appended to this report.

Memo

1. Portion marked red shows the land that are admitted to belong to Mr. Brito.
2. Portion marked yellow shows the land in dispute - survey No: 4.
3. The portion marked green shows the wet and garden lands belonging to rayats within the boundaries pointed out by Mr. Brito and also adjoining them. These lands are in the holding of the rayats.
4. The portion marked red and blue with a pencil is the boundary line separating Jalgon from Mavinakere.
5. Portion marked blue are Sircar Gomal lands within the boundaries pointed out by Mr. Brito and also adjoining them.
6. Houses, Valleys, tiles, roads to have also been marked. (See Table of Reference shown in the Sketch)

(P.T.O)

1.

1. Mr. Brito says that Rs. 15: 8382 is the Raja Maji patta of Rs. 15: 4. The boundaries mentioned in this are dotted thereon in the Eastern line.

A. Site on which Singal's house stood. ~~A Kotta Patta~~

B. Hatta Kattê
Jack tree in the

C. Footpath adjoining garden land

D. Maidan Hena

E. Footpath adjoining Gôni tree

F. Kallu kattê

G. Hill-top (or D to E)

H. Old ditch

I. Foot-path on the top of the Hill

J. Upper Ridge. (ಮೇಲಿನ ದಿಬ್ಬ)

K. Old ditch

L. ಗುಳಿ to ಬೆಟ್ಟ - Road to Belgode.

M. Old ditch to the South.

There are however discrepancies (pointed out in the margin) between the data when we consider the direction in which the lands are actually situated and the direction as mentioned in the Patta. But these natural and fixed boundaries surround the land in dispute and are hence some fixtures of land implicit for coffee cultivation. Mr. Brito has produced 5 pattas, four of which refer to lands about which there is no dispute. He says that their boundaries need not be marked and so they are not marked. He says that Nos. 2, 46, 688, 685, and 7 wholly belong to him. The whole land in Survey No. 46, 688, 685 and 7 is accessed; but

| | × direction in Patta | Actual direction |
|---|---|---|
| A to 7 are said to lie to the East | | They are actually to the East with. |
| G, H, I & J to the West | G to the North | |
| H, I, J & K to the North | H, I, J to the North | |
| K, L to the South | K, L to the South | |
| M to the South | M to the West | |

13

This is an appeal against the order of the Court of Kadur fining the appellant for unauthorized encroachment + partial cultivation of survey no - 4 of the Talagodu village. The principal ground of contention is that the land formed part of the appellants' holding, that he cultivated it in good faith under that honest belief, and that if at the Survey settlement it has been excluded the same should be added on to his holding. The point now made by the appellant is clearly that the Survey & Settlement Officer has wrongly included the land in question within the boundaries specified in the Pattah No. 5. 382.6874 which was held by the Patel. This contention can not be entertained for the first time in appeal. There is no doubt regarding the truth of the Patels allegation. For the same reason it appears that there has been a mistake that in the Post-Paharee record one Venkata Krishnayya was re-

known as the Salleston. Apparently
the cause of the mistake is the difficulty to identify the land. The
Surveyor's report now made has
brought this mistake to light, which
however does not affect the conclusion that the land obviously
formed part of the Petr's holding.
It was not cultivated by anyone
and it is not impossible that the
Petr. continued under the belief
that the land had been included
in the Patta which he obtained
at the Survey & or Coffee settlement
It is nevertheless a fact that Survey
No 4 has been excluded and also
now forms no part of the
present appellants' holding. He admits
the fact that he did attempt to
plant it with coffee and says
that if not included in the Patta
already it may be so dealt with
now & that he is willing to pay
the increased assessment The

17

holding, and to compensate
the for the loss of Kandayan
it is necessary to direct that the
an upset price at the rate of ten
~~the~~ per acre be levied from the
Ryots - The price published on
by the Govt
basis of unamortized calli-
-valent will be remitted, but
the full appraisement of the whole
amount will be levied from
the year in which he cultivated
the land.

Recd.
9/6/96

15

question to be decided is whether the Petr is entitled to any equitable consideration. The Deputy Commr says he is not and that it is too late for him to disturb the correctness of the Survey settlement. There would have been much force in this argument had the land was not under cultivation and no interruption occurred till on account of its exclusion. From the records it is evident that the Petr has, during the last few years gradually extended his cultivation, and was stopped when he reached the land in question. His act is quite compatible with his honest belief that he continued as the attempt to cultivate the land in question. His act is not wilful and wantonly mischievous,

[Margin note:] There has been no proof that the exclusion of the land at the Survey settlement had come to his knowledge. He says he was not living present at the settlement.

19

Submitted to Hon Council's Counsel. Case

Gen. Serial No. 32.]

1895

No. 2797

Name of Petitioner. S. Sabina ~~Coelho~~ Coelho wife of Mr. J. Fr. Britto

Village. Coffee Planter in —

Taluk. by Mr. C. Sabapathy

District. Barrister at-Law and Advocate Bangalore

Date of Arzi. 23-4-95

Date of Receipt. 24-4-95

Date of Disposal.

No. of Enclosures. 5

ABSTRACT.

Appeals against the order of the Dy. Comr. Kadur District No. 13 of 8-4-95 respecting Zalapore Coffee Estate situated in the village of Zalapore, Kadaa Magani Mudigere Taluk - informing the petitioner that she has been fined for encroachment on Govt. Land No. 4 that petitioner had not shown any valid reason to show that it was otherwise than Govt. Land and that it was too late now to appeal against the boundaries settled by the Survey.

Prays that the above order which is Exhibit A may be set aside - that she may be permitted to carry on operations pending disposal of appeal -

Let the case be laid on for hearing - Early.

Call previous papers for hearing

1111 8

27/4/95

Recd Despatch SUR 2/5

though it is certainly unauthorized and ~~unauthorized and he was thereby~~ rendered ~~himself~~ liable to be

16 dealt with under the L. R. Code. However, he seems, ~~However,~~ Under the circs, to be ~~entitled~~ entitled to some ~~considerate~~ consideration & there is no reason whatever to evict him from the land. The villagers have more than once, and in their mahazars of Dec 93 & April 94 ~~agreed to the land being given to him & the~~ and again ~~once~~ before the Dist Surveyor agreed to the land being given to the appellant. The reservation which they wish to be made refers to a ~~regarding the roads~~ pathway which is said to exist in this land. ~~may be made & duly recorded & that in the land may be duly assessed & given to Patto the ditto~~ This may be allowed & notified with the land survey No. 4 & may be duly assessed & given to the Patr. To punish the Patr. for his laches in allowing the land to be excluded from his

The case which stood posted for this day has been adjourned to 21st inst.

21

Gen. Serial No. 31.] (3)

1895 15697.

Pet: 644

From The Deputy Commissioner
Kadur District

To Copies
The Secretary to the
Dewan of Mysore.

Dated 16th May.

Despatched 16th May.

Received

Enclosures—No 3 (Vernacular Records as per "Phairist")

General No. 10.
No. Camp.

Submitting entire records connected with Survey No. 4 of Talgode village in the Mudigere taluk claimed by Fabino Coelho.-

P.A. Branch
18/5/95

22

From.

The Deputy Commissioner
Kadur District.

To.

The Chief Secretary to the
Government of Mysore.

With reference to his official memo No. Pol/1505 dated the 27th april/2nd may 95 calling for the records connected with Survey No. 4 of the Talgode village in the Mudegere Taluk, alluded to in one Salvino Coelho's petetion, has the honor to submit the entire proceedings on the subject as called for, and to state that the whole of Survey no. 4 applied for by Mr Reed is reserved as Government waste, as it was considered inexpedient in the public interests to give it out for cultivation.

2. The enclosures received with the memo under reply and the original telegram from Talgode Villagers received with his official memo No. Pol/1481 dated 17/25th april 95 forwarding the

18

Pending Business

The address was heard by both the 2d & 3d Councillors. The Record was ordered by both. The Proceedings have been made on the Journal report received from the Dy Town Clerk are read & declared to be correct & shall not go to the 3d Ct also.

10/6/96

I was aware Mrs Rhoads certainly have sent my opinion to that Councillor — the Rules as to this matter are clear, & one Councillor alone it would not be right to make a report to another. Mrs Rhoads may difficulty & I did not mention it to other Councillors.

11-6-96 11/6/96

Ref. March 24
22/5

Gen. Serial No. 31.] (4)

1895 15-965.

Pet: 658

From The Deputy Commr
Kadur District

To The Secretary to the Government
~~Dewan~~ of Mysore.

Dated 20th

Despatched 20 May

Received

Enclosures—No. 4

General No. 694 } 1894-95
No.

In continuation of this office docket Camp No D dated 16th instant, submitting records connected with the complaint of one S. Sabina Coelho of Mangalore in respect of Survey No 4 of the Talagode village in the Mudgere Taluk, has the honor to submit for reference, with the vernacular papers already submitted, her original petitions dated the 20th November 1894 and the 1st April 1895 with the undersigned's orders thereon, the present appeal from her being against

the ordero dated 6th April
1895 on her second peti-
tion. These petitions could
not be submitted with the
vernacular papers as
they were lying at Head
Quarters.

25

H H Sparkes
Deputy Commr
Hadur District

HHS/.

Pet
1505

20

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT. (2)

OFFICIAL MEMORANDUM.

The accompanying Petition No. 2797
dated 23 April 1895 received at the
Dewan's Office from S. Subbaiya Setty
appealing against the order of
the Sessions Judge Kadur dt. the 13
dated 8th April 1895

is forwarded, together with its 5
enclosures, to the Sessions Judge Kadur
for early disposal of the
records connected with the
complaint.

The petition is dated 5 21
Instant for hearing
appeal and the

By Order,

Chief Secretary

BANGALORE,
2/3 May 1895

M.G.C.P.B.—19-2-95—1,000

the same for disposal are hereinafter re-
-ferred.

5. The villagers seem to have urged
the Government on the subject before the
Undersigned's order of the 23rd March 95
reserving the land to Government were can-
-ed. These orders were however not com-
-municated to them Subsequently.

H H Sparke
Deputy Commissioner
Kadian District.

Camp Sadia
2/5/95

Talooke

28

(General Serial No. 30.)

71

1895. Pet 5

From

The Deputy Commissioner
Kasaragodu District

(7)

To

Revenue

The ~~Chief~~ Secretary to the ~~Dewan~~
Government of Mysore.

Dated 2nd

Despatched 3rd } July 1895.

Received

**Enclosures No.**

General No. 8 } 1895-96.
No.

Informing that it is impossible to forward a sketch of survey nos 4 and other nos in Salagadevillage Mudgere Taluk, as that part of the country is now covered by heavy mist, and stating that from the coffee settlement papers it is apparent that Survey nos 4 never belonged to the appellant, Mrs Salvina S. Coelho.

42 d 5.7.95

P 415 97

Mr. C. to the Revenue Commissioner for file.

A report such as was required in Govt order 24622 is absolutely necessary for a decision to arrived at in this matter & the D.C. could kindly comply with it

10.7.95

Draft ordered 11-7-95

Draft letter

Copied 11.7.97.

Deputy Commissioner's Office
Hadur District.
Chikmagalur 2nd July 1895.

29

From

The Deputy Commissioner
Hadur District

To

The Revenue Secretary to the
Government of Mysore

Sir

In reply to Government Proceedings
No 24622 dated 24th June 1895, question-
O.T. 106-94
ing whether Survey No 4 of Talagode
village ever belonged to the appellant
or her antecedents, and as such was
included in the coffee patta belonging
to the same, I have the honor to inform
you that in order to determine whether
Survey No 4 was ever included in the
old coffee patta it will be necessary
to make an inspection of the old and
new boundaries, but which inspec-
tion cannot be made for some months
to come owing to the heavy mist which
hangs in that part of the country
during the monsoon, and as such
will necessarily delay the report on hand,
I now beg to report what can be gather-
ed from the coffee settlement papers

and

Gen. Serial No. 31.]

(6)

189

*From*

*To*

*Dated*

*Despatched*

*Received*

*Enclosures No.*

*General No.*

*No.*

Pro: of the Govt. of Province.

Read:-

Petition registered No: 2797 dated 23d April 1895 from S. Catrina Coelho wife of Bze: Pl Pro: Kalto Coffee Planter, Appealing against the Kadur Dy. Commrs Order No: 13 dated 9th April 1895 fining Petitioner for having encroached upon S. No: 4 of Talagodu Village in the Pundaguru Taluk.

2. The records connected with Appeal received from Circle Amildar No: 2 Camp dated 16th May 1895 from the Dy. Commr: Kadur District.

Order thereon:- Mr. 24622 / F.A. 10-6-95 dt 24.6.95.

The Deputy Commissioner will be requested to send a Sketch of Nos: 4, 46, & 29 and the contiguous Survey Nos numbers. The boundaries mentioned in the Patias produced by the appellant should be distinctly marked in the Sketch. The question which has to be determined in this case is whether No: 4 is included within the boundaries mentioned in Respt Patias. The question

tion ordered. 32

The record received with the Proceedings under reply are herewith resubmitted for reference and kind return when no longer required.

I have the honor to be

Sir

Your most obedt Servant

B Ramadan

for Deputy Commissioner

Kadur District

27

question as to the effect of the appellants' conduct in not having the survey boundaries certified is one of secondary importance, as if it formed a part of the appellants' holding the separation of it from Survey No. 46 will not altogether deprive the appellant of it. Without however making any remarks about this question, it seems right that it should be ascertained whether Survey No. 4 etc. formed part of the appellants holding under the Pattas. The Dy. Commr. will give his opinion on this question with reasons and submit a sketch of the lands alone mentioned.

The records are returned for needful reference and resubmission.

HCL

Re. Pratts

To Revd. Craig.

Comdr.

To The Dy. Commr. Kadapa

S.KR 2/16.

one from which I am of opinion that the present appeal can be disposed of.

2. The original plaintiff's case was prior to the survey-settlement that survey no. 4 belonged to Vaidya Bin Nagaji and that survey no. 46 was in the name of G. I. Patil (contended by defendants). The Vasal Patil prepared at the settlement in January 1882 shows that survey no. 4 was assigned by Vaidya Bava for the Khatedar (Devasthana). The Tabdi Patrak of 88-89 shows that survey no. 4 is Government waste and that survey no. 46 is in the name of G. I. Patil.

3. From the above it is very apparent to me that survey no. 4 was belonged to G. I. Patil during the cadjee settlement. The cadjee settlement papers do not show why survey number two odd cadjee patas were divided as it was apparently unclear) unnecessary

to do so.

4. Should however the Government wish to treat such a division now, I will endeavour to do so such as I have stated above it is hoped less to attempt it at this time of year

5. Should this appear to be advised, I would beg to bring to the notice of Government that this will form a precedent for numerous such cases, as now that coffee land is found to be so valuable such claims on old plantations will be innumerable, and Section 11, 5, Land Revenue Act, will be useless.

6. As I presume the Chiefs called for is only to determine how the old coffee plots stood as regard boundaries to the new survey numbers, I do not consider it necessary to enclose it but will do so, should the Government direct me to carry out the inquiry.

tion

33

Gen. 31

OFFICE OF TH
21. APR. 189
COMMISSIONER OF M 96

From

To

REVENUE DEPARTMENT
GL. No. 7023
21 APR 96
DEWAN'S OFFICE

Dated 15th April 96.

Despatched

Received

General No. 1705 96-97

Enclosure No. 1 - Petition of Rai Tarini Sahib, appeal against the order of the Deputy Commissioner, Lyallpur in the encroachment case of Tarney Das son of the Lalgarh Village, Jaranwala Tahsil.

As noted with reference to 2nd Commissioner's order on Mr. Campbell's Appeal.

Mr. Campbell's Note of 23/4/96 passed upon hearing the matter in Council and the Petition and Enclosure returned to the Deputy Commissioner Lyallpur under cover.

Translation of the Lawyer's Reply & Issues are put up.

23/4/96

Petitioner Records
NB
21/4/96

Submitted.
22/4

Put up
20/4/96

Talg 2

Rejected by Collector vide No 2797 dt 6
Mr Subramanya Iyer
Revenue Counsellor
To
23 Nov 95

Two rupees Stamp affd Ex:

The Government of Mysore

Bangalore

The Petition of S. Sabina Coelho wife of Mr J. M. Brito, residing in Mangalore, Coffee Planter and Proprietor of the Coffee Estates in the Province of Mysore

2797 R 24/11/95

Respectfully Sheweth

1. Your Petitioner owns amongst other Coffee Estates, that known under the name of Thalgode Coffee Estate situated in the Village of Thalgode Kalasa Magani, Mudugere Taluq, of the Kadur District. Your Petitioner pays this Government an annual land Revenue of nearly 1000/- Rs.

2. In the year 1868 one of Petitioners brothers-in-law purchased this Estate in Government Sale and obtained the four marginally noted Pattas.

Deputy Commissioner's Office
Kadua District
Bitumagaiua, 5th April, 1906.

From

The Deputy Commissioner
Kadua District

To

The Secretary to Government
General and Revenue Dept

Sir

With reference to the correspondence ending with your urgent telegram requesting immediate submission of my report on the petition of Selina Kaeiáo, wife of Mr J. R. Hunt, Office Clerk, appealing against my order of April, 1905, regarding her encroachment upon Survey-Area 3 of the Saigasi village in the Nuagere District, I have the honor to submit as directed in Government Proceedings No 2142 dated 24 June 1905 a sketch showing Survey-Nos 4, 46 and 47 and other contiguous survey-numbers in the said village which were traversed by the Surveyor after carefully going through the boundaries mentioned in the original petition No 1532 and as pointed out to him by the Chief and the villagers. The explanatory memo attached to the Surveyor's report, dated the 3rd the said

35

GOVERNMENT OF [illegible]

[illegible] marked green on the [illegible]
N. on the Arieri river, surrounded the
Government survey No. 1, main dis-
pute, and also a portion of general
survey No. 170, and bearing the said
number having been once in the enjoy-
ment of the whole of the above Para.

2. As already explained in my
letter No. 8 dated 2nd July, 1908, the first
Pedro, since survey, we have
stood in the State of Venezuela Brazil
bin Negapia at the time of original
settlement. Since the survey came
to be in the State cannot be main-
ascertained under it was claimed
by Venezuela in the absence of
Antony Brito. Again it is a question
whether the said Para boundaries, was
prima facie called upon
as the majority of them being tempo-
rary may have been obliterated
since.

3. On my inspection, I found that all
the bagazeira canes in the vicinity de-
fined upon survey No. for their
Copiniettes and the most valuable
in their complaints about the sur-
vey was being given to Brito for

this reason. The portion marked A on the plan is the ——————— that cultivated by the Petitioner and for which he has been fined. It will be further observed that a stream takes its rise in Kennedy's land which stream is utilized for the cultivation of the garden land in question.

4. The appeal petition with its annexures and the remainder papers as per Index are herewith forwarded for reference.

I have the honour to be

Sir

Your most obedient servant

Lt Parke

Deputy Commissioner

Addl Dhalai

duplicated copies of which are
hereunto submitted

3. At the family division, the
Premises fell to the share of three of
the members of the family, who how-
ever neglected the place and
did not plant.

4. In the year 1882 the same land
premises were registered in the
name of the late Sr. S. A. Brito,
who sold it to Petitioners husband
Wm. Jacob Brito by a deed dated
the 19th March 1890 Petitioners
husband having settled the same
on Petitioner by a deed bearing
even date with the above, your
Petitioner has ever since enjoyed
the same paying all Government
dues thereon

5. Petitioners commenced to
plant in 1891 and each year she
has steadily extending by planting
a few additional acres.

6. In September last Petitioners
agents cleared and potted a plot
which Petitioner and her agents

Petitioner has always exercised
right of ownership on the lands, and
has always believed that they were
hers. No enquiry was held and
Petitioner was not given the oppor-
tunity of showing that the lands
were really within her boundaries.

18. Petitioner prays that it may
please Government to call for all
the records connected with this
affair and to set aside the ex parte
orders passed.

19. Petitioner also prays that it
may further please Government
to permit Petitioner to carry on
her operations pending the final
of the matter by Government and
Petitioner is ready and willing
to lodge with Government such
sum of money as to Government
may seem reasonable for payment
to Government in the way of
Revenue for the lands in the
event they are found not
to be within the Petitioner

have always been under the impression and belief, formed a part of her estate

39

7. On the 23rd November last the Shaikdar of the Dooganee came there and prevented Petitioner's workmen from carrying on their operations alleging that he was acting under the Amildar's Orders.

8. On the 10th December the same Shaikdar came accompanied by some Police constables and declared they had come to arrest the agent and coolies that had cleared and pitted the plot aforesaid.

9. Petitioner had at the time working on the estate over 70 Coolies that had been collected at very great expense and trouble. These when they came to know of the arrival of the Police and the object of their coming, the whole of them bolted, thereby inflicting upon Petitioner a considerable loss in money and work. The operations for the year necessarily ceased.

10. The Shaikdar took a Mutchalika

2 Drafts

(18)

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Proceedings of the Govt of Mysore.

Read:—

(1) Petition of appeal No 2797 dated 23rd April 1895, presented by S. Sabina Coelho, wife of Mr J. M. Brito of Mangalore, against the order of the Deputy Commr of Kadur fining Petitioner in the sum of Rs 6.25 for having encroached upon & cultivated Government waste land, bearing Survey No 4 of Talagodu village in the Mudagere Taluk, and directing resumption of the land to Govt.

(2) Correspondence ending with letter No 709 dated 15th April 1896 from the Deputy Commr Kadur District, submitting further report on the above petition, with a sketch showing the said Survey No 4 and the adjoining lands, called for in Govt Progs. No $\frac{24622}{P.7.106-94}$ dated 24th June 1895.

(3) Records of the case.

Order thereon. No. 11030 dt 18-6-96
P.J. 106-94 / 19

Encl: 4 Ver: files and
E mark Sketches
seperately by parcel
Mark

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This is an appeal against the order of the Deputy Commr of Kadur, fining the appellant for unauthorized encroachment and partial cultivation of Survey No 4 of the Talagode village. The principal ground of contention is that the land formed part of the appellants holding, that she cultivated it in good faith under that honest belief, and that, if, at the Survey Settlement, it has been excluded, the same should be addedonto her holding.

2. The report now made by the District Surveyor shows clearly that the land in question was comprised within the boundaries specified in the old Patta No. 5-382 - 68 7/8

from Petitioners agent that he will not clear and fit any more on the land until further orders.

40 11. Petitioner fears that the Journal by order to had come, but up to this time no notice of any such was given and no enquiry held so far as Petitioner is aware.

12. Petitioner has raised large nurseries and at great expense and trouble and seeing that the whole would go to waste if immediate steps were not taken to get the ground ready to receive the plants and hearing nothing more from the authorities, applied to the Deputy Commissioner on the 9th Instant asking him to permit her to proceed with her work and that should there be any error or misapprehension in the registers, that it may be rectified.

13. In reply Petitioner has received the endorsement herewith submitted.

14. That Petitioner is informed

that she has been fined for encroachment on Government land No. 4 and that Petitioner had not shewn "any valid reason to shew that it was otherwise" than Government land and the order also states that it was "too late now to appeal against the boundaries settled by the Survey

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15 Petitioner begs to appeal to Government against this order as being not only irregular and illegal but highly unjust and acts as a great hardship to Petitioner.

16. Petitioner bears for the first time of the fine inflicted upon her. There has been no notice to her. No explanation called for. No enquiry whatever so far as she is concerned. Everything has been done in a way that would inflict upon her great loss & inconvenience

17. Petitioner's Pattas contain specific mention of boundaries and the land in question is undoubtedly within them

holding.

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Petitioner shall ever pray

Bangalore
23rd April 1895

C. Sabapathy Iyer
Barrister at Law & advocate
Petitioner's Counsel.

which was held by the Petitioner
to denote can thus be entertained regarding the truth of the Petitioner's allegation. For the same reason it appears to have been a mistake that in the Pool Patta record, one Venkatakrishnaiya was mentioned as the Pattadar. Apparently, the cause of the mistake is the difficulty to identify the land. The Survey's report now made has brought the mistake to light, which, however, does not affect the conclusion that the land obviously formed part of the Petitioner's holding. It was not cultivated by any one and it is not impossible that the Petitioner continued under the belief that the land had been

included in the Patta which she had obtained at the Survey or Coffee Settlement. It is nevertheless a fact that Survey No. 4 has been excluded and at present forms no part of the applicants' holding. She admits the fact that she did attempt to plant it with coffee and prays that, if not included in her Patta already, it may be so dealt with now, and that she is willing to pay the increased assessment. The question to be decided is whether the Petitioner is entitled to any equitable consideration. The Acting Collector says she is not, and that it is too late for her to dispute the correctness of the Survey Settlement.

There

2 Draft 20-05-96
19-6-96

No. 2797

LR 127-95

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT, (19)

189

**Endorsement granted to** S. Sabina Coelho, wife of Mr J. M. Brito residing at Mangalore

**In reply to** her **Petition Registered No.** 2797 **dated** 23rd April 1895 appealing against the order of the Dy Commr of Kadur, fining Petitioner for having encroached upon S.No 4 of Talagodu village Mudigere Taluk, and directing the land to be resumed to Govt.

Petitioner is informed that the Govt are pleased to remit the fine inflicted on her by the Deputy Commr, and to direct that, subject to the right of way of the villagers, the land bearing Survey No 4 may be duly assessed and given to her, on payment of an upset-price at the rate of Rs 10 per acre, and of the assessment of the whole number from the year in which she cultivated it.

2. The enclosures of the petition and the two sketches produced by her counsel are herewith returned.

"By Order"

Draft
JF
16/6

Chief Secretary.

M. G. C. P. Bangalore—6-3-94.—2000.

There would have been much force in this argument; had there been proof to show that the occupation of the land at the survey Settlement had come to her knowledge. She says she was not herself present at the Settlement; the land was not under cultivation and no interruption occurred to it on account of its occupation. From the records it is evident that the petitioner has, during the last few years gradually extended her cultivation, and was stopped when she reached the land in question. Her act is quite compatible with her honest belief that she continued as the occupant of the land in question

Her

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Petitioner. Is given in Petition for her Lacher in allowing the land to be excluded from her holding, and to compensate the Government for the loss of Kandayam it is necessary to direct that an upset price at the rate of ten rupees per acre be levied from the Petitioner. The fine inflicted on her by the Deputy Commr for unauthorized cultivation will be remitted, but the full assessment of the whole number will be levied from the year in which she cultivated the land.

G.
18/6/16
Secretary

Draft
Cz
A.S.
16/6

To
The Deputy Commr
Kandy District with the
entire records. X

S.V.
16/6.

X with folios

Her attempt to cultivate is not wilful and wanton mischief, though it is certainly unauthorized and renders her liable to be dealt with under the Land Revenue Code. Under the circumstances, however, she seems to be entitled to some consideration and there is no reason, whatever, to evict her from the land. The villagers have, more than once, and in their Mahazars of dec 93 and April 94, and again before the District Surveyor, agreed to the land being given to the Appellant. The reservation which they wish to be made refers to a pathway which is said to exist in this land. This may be allowed, and subject to it, the land Survey No 4 may be duly assessed and given to the

Petitioner